

ARKANSAS SUPREME COURT

No. 09-268

JAMES NELSON
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered May 14, 2009

PRO SE MOTIONS FOR BELATED
APPEAL AND FOR APPOINTMENT
OF COUNSEL [CIRCUIT COURT OF
JEFFERSON COUNTY, CV 2008-924,
HON. ROBERT H. WYATT, JR.,
JUDGE]

MOTION FOR BELATED APPEAL
DENIED; MOTION FOR
APPOINTMENT OF COUNSEL MOOT.

PER CURIAM

Petitioner James Nelson, a prisoner incarcerated in the Arkansas Department of Correction, filed a pro se petition for writ of habeas corpus in Jefferson County Circuit Court seeking relief from custody. The petition was denied by order entered October 30, 2008. Petitioner filed a notice of appeal on January 7, 2009. He now brings this motion for belated appeal and a motion requesting counsel to represent him in the matter.

A petitioner has the right to appeal a ruling on a petition for postconviction relief, such as a petition for habeas corpus relief. *See Scott v. State*, 281 Ark. 436, 664 S.W.2d 475 (1984) (per curiam). However, along with that right goes the responsibility to timely file a notice of appeal. The time limit in Arkansas Rule of Appellate Procedure--Civil 4 requires notice of appeal to be filed within thirty days from the entry of the judgment. Petitioner filed his notice of appeal sixty-nine days after the entry of the order denying his habeas petition. The notice clearly was not timely.

In his motion for belated appeal, petitioner bases his request upon his assertion that he was denied appointment of counsel to represent him in the proceeding, that the judgment of conviction was invalid on its face, and that his conviction was in violation of the prohibition against double jeopardy. Petitioner's last two claims essentially allege that his petition for writ of habeas corpus had merit. We do not consider the merits of petitioner's petition, however, because he states no good cause for his failure to follow our procedure.

Aside from asserting that this court should allow the appeal to proceed because his petition was meritorious, appellant only offers that he was denied appointment of counsel as a basis for relief. There is, however, no entitlement to counsel in a postconviction proceeding. *Ratchford v. State*, 357 Ark. 27, 159 S.W.3d 304 (2004). The right to counsel ends in this state after the direct appeal of the original judgment of conviction is completed. *Hardin v. State*, 350 Ark. 299, 86 S.W.3d 384 (2002) (per curiam). The fact that petitioner is not represented by counsel does not provide an excuse for his failure to comply with procedure. All litigants, including those who proceed pro se, must bear responsibility for conforming to the rules of procedure or demonstrating a good cause for not doing so. *Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (per curiam); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (per curiam); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (per curiam); *see also Tarry v. State*, 353 Ark. 158, 114 S.W.3d 161 (2003) (per curiam).

Because he has not demonstrated good cause for his failure to timely file the notice of appeal, petitioner's motion for belated appeal is denied. The motion for appointment of counsel is therefore moot.

Motion for belated appeal denied; motion for appointment of counsel moot.